

DM 05-172

**VERIZON NEW HAMPSHIRE
AND ELECTRIC UTILITIES**

Generic Investigation into Utility Poles

Procedural Order

ORDER NO. 24,587

February 3, 2006

APPEARANCES: Victor D. DelVecchio, Esq. for Verizon New Hampshire; Gerald Eaton for the Public Service Company of New Hampshire; Colin Owyang, Esq. for Granite State Electric Company, d/b/a National Grid-New Hampshire; Gary Epler, Esq. for Unitol Service Corporation; Devine, Millimet and Branch by Mark Dean, Esq. for the New Hampshire Electric Cooperative, Inc.; Wensley, Jones & Azarian, PLLC by Danford J. Wensley, Esq. for City of Rochester; Paul F. Cavanaugh, Esq. for the City of Concord; Mark S. Gearreald, Esq. for the Town of Hampton; Donahue, Tucker & Ciandella, PLLC by Robert D. Ciandella, Esq. for the municipalities of Exeter, Hanover, Keene, Newmarket, Portsmouth, Raymond, Salem, Seabrook and Stratham; Philip Monk for George E. Sansoucy, P.E., LLC; Gary Abbott for Associated General Contractors of New Hampshire; Devine Millimet & Branch PA by Frederick J. Coolbroth, Esq. for the New Hampshire Telephone Association; Steve Wengert for BayRing Communications; William Durand, Esq. for New England Cable and Telecommunications Association, Inc.; Lynmarie Cusack, Esq. of the N.H. Department of Justice for the N.H. Department of Transportation; F. Anne Ross, Esq. for the Office of Consumer Advocate; Lynn Fabrizio, Esq. for Staff

I. BACKGROUND AND PROCEDURAL HISTORY

On October 24, 2005, the New Hampshire Public Utilities Commission (Commission) issued an Order of Notice opening a generic investigation into issues related to, *inter alia*, joint ownership of poles by electric and telecommunications utilities; pole installations, replacements, and removals; response time to customer requests for service; maintenance obligations and related safety concerns; emergency response; tree trimming; private property construction charges and multiple attachments. The Order of Notice was based on a Commission Staff (Staff) memorandum, dated October 20, 2005, that outlined the scope and nature of certain complaints received from customers as well as utilities related, *inter alia*, to the

installation, maintenance and shared use of utility poles. In its memorandum, Staff recommended that the Commission open a docket and initiate a generic investigation into poles-related issues, pursuant to RSA 365:5.

The Order of Notice scheduled a Prehearing Conference for November 10, 2005, to be followed by a Technical Session. The Order further made Verizon New Hampshire (Verizon), Public Service Company of New Hampshire (PSNH), Granite State Electric Company d/b/a National Grid–New Hampshire (National Grid), Unitil Service Corporation (Unitil), and New Hampshire Electric Cooperative, Inc. (NHEC) mandatory parties to this proceeding, and directed Staff and Parties to discuss the scope of the investigation and recommend a Procedural Schedule in the Technical Session. The Order required that petitions for intervention pursuant to Puc 203.02 to be filed on or before November 7, 2005, and any objections to petitions to intervene be filed on or before November 10, 2005.

Petitions for intervention were received from segTEL, Inc. (segTEL); New England Cable and Telecommunications Association, Inc. (NECTA); Associated General Contractors of New Hampshire (Associated General Contractors); the New Hampshire Department of Transportation (NHDOT); the municipalities of Exeter, Hanover, Keene, Newmarket, Portsmouth, Raymond, Salem, Seabrook, and Stratham appearing jointly, as well as Concord, Hampton and Rochester; the New Hampshire Local Government Center; Sprint Spectrum and Nextel Communications (Sprint/Nextel); Union Communications, Inc. (Union); BayRing Communications (BayRing); the New Hampshire Telephone Association (NHTA); and George E. Sansoucy, P.E., LLC (Sansoucy). The Office of Consumer Advocate (OCA) notified the Commission on October 26, 2005, of its intent to participate in the docket on behalf of New Hampshire ratepayers, consistent with NH RSA 363:28.

On November 9, 2005, segTEL filed a Motion for Clarification of Scope asking the Commission to review relevant CLEC experiences with both electric company and Verizon pole attachment practices and to consider how the competitive market is affected by those practices. SegTEL further requested that the Commission review pole attachment practices for compliance with Federal Communications Commission (FCC) regulations. On November 10, 2005, the town of Hampton filed a Preliminary Statement of Position. On November 10 and 18, 2005, individual residents of the towns of Exeter and Rochester filed letters of concern.

The Prehearing Conference and Technical Session were held as scheduled on November 10, 2005. At the Prehearing Conference, NHEC objected to its status as a mandatory party, citing the Commission's lack of regulatory jurisdiction over this aspect of NHEC's operations. NHEC further stated its desire to participate via a monitoring-only status, as part of the service list and as a participant in informal discovery only. All pending Motions to Intervene were granted from the bench at the Prehearing Conference. On November 18, 2005, Staff submitted a report on the Technical Session outlining a proposed preliminary Procedural Schedule for the early stages of this docket. On December 9, 2005, the Commission issued an Order Setting Procedural Schedule (Order No. 24,558) to govern the conduct of this proceeding. At that time, NHEC's request to participate in a monitoring role only, and not as a mandatory party, was granted.

On January 17, 2006, the Parties and Staff met in a second Technical Session to discuss a schedule for further proceedings in this docket. On January 20, 2006, Staff filed with the Commission a report of the Technical Session held on January 17, 2006.

II. PROPOSED PROCEDURAL SCHEDULE

In its report of January 20, 2006, Staff stated that Participants in attendance at the January 17, 2006 Technical Session reached an agreement regarding: 1) a list of topics, in order of priority, for further discussion; 2) a preliminary procedural schedule to address the three highest priority topics; and, 3) a method for proceeding in this docket.

Following is the list of topics in order of priority agreed upon by the Technical Session Participants:

1. Emergency Management
 - a. Call Out Procedure
 - b. Timely Removal of Hazardous Poles
 - c. Intra-Utility Communication and Notification
 - d. Inter-Utility Communication, Notification and Coordination
 - e. Utility Communication with Others
 - f. Emergency Response Procedures
2. Joint Ownership Responsibilities for Operation and Maintenance
 - a. Pole Line Trimming
 - b. Inspection of Poles by Utilities
 - c. Pole Maintenance
 - d. Timely Placement and Removal of Poles
 - e. Double Poles
 - f. Inter-Company Communication and Notification
3. Utility Relationships with Governmental Entities and their Subcontractors
 - a. Attachments/Reservation of Space
 - b. Licensing
 - c. Public Works Projects
 - d. Management of Rights of Way (State & Municipal)
4. Retail Customer Relationships
 - a. New Service Provisioning
 - b. Private Property Construction Practices and Charges
 - c. Service Upgrades and Changes

5. Competitive Issues

- a. Who sets poles in VZ maintenance area where VZ doesn't have a customer?
- b. Order of Attachments in Communication Space
- c. Make-Ready for New Attachments
- d. Whether and How Pole Attachment Practices Affect Competitive Market

The following preliminary Procedural Schedule was proposed and agreed upon by the Technical Session Participants for the first three topics:

Topic 1

Proposed Supplemental Data Requests on Topic 1 to Staff	January 20, 2006
Data Requests from Staff to Parties	January 24, 2006
Data Responses from Parties to Staff	February 3, 2006
Technical/Work Session on Topic 1	February 17, 2006
Technical/Work Session on Topic 1	March 9, 2006
April 7 Topic 1 Work Product Due	April 7, 2006

Topic 2

Proposed Data Requests on Topic 2 to Staff	January 31, 2006
Data Requests from Staff to Parties	February 7, 2006
Data Responses from Parties to Staff	March 7, 2006
Initial Technical Session on Topic 2	March 30, 2006
Technical/Work Session on Topic 2	April 20, 2006
Technical/Work Session on Topic 2	May 17, 2006
Topic 2 Work Product Due	May 31, 2006

Topic 3

Initial Technical Session on Topic 3	April 11, 2006
Proposed Data Requests to Staff	April 14, 2006
Data Requests from Staff to Parties	April 20, 2006
Data Responses from Parties to Staff	May 11, 2006
Technical/Work Session on Topic 3	June 9, 2006

Staff indicated in its letter of January 20, 2006, that procedural schedules for topics 4 and 5 will be set at a future date. Staff also indicated in its report that Technical Session Participants agreed upon the following general approach for proceeding with the docket:

1. Staff will send out a uniform email distribution list for communication of discovery and responses;
2. Staff will create a website depository for discovery materials and details will be sent to the Parties by email;
3. Separate Technical Sessions will be established for each topic, and participation will be open to all Parties;
4. Work products to be produced through Technical/Work Sessions will include summaries of issues and facts, recommendations where possible, and identification of issues where there is no consensus agreement. Two or three volunteers per topic will facilitate discussions and draft the Work Product; and,
5. All proposed data requests will be sent to Staff for distribution.

III. COMMISSION ANALYSIS

We find that the proposals made by the Parties and Staff are reasonable and therefore we approve the recommendations. Inasmuch as the Parties and Staff appear to be making effective progress in this docket, minor alterations to the list of topics may be made upon agreement of the Parties and Staff without Commission approval. However, any significant changes to the proposals outlined in this order shall be brought before the Commission by letter or motion, and acted on by the Commission.

Based upon the foregoing, it is hereby

ORDERED, that the List of Priority Topics and the Procedural Schedule for the above-captioned docket, as outlined above, are APPROVED.

By order of the Public Utilities Commission of New Hampshire this third day of
February, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

ChristiAne G. Mason
Assistant Executive Director & Secretary